



20th March 2019

Our Ref: DCYA FOI 2018/122

Your Ref: 190087

Brenda Lynch
Investigating Officer
Office of the Information Officer

Dear Ms Lynch,

I refer to your correspondence dated 6th March which relates to a review request from Mr Ken Foxe.

Mr Foxe's FOI request was initially received by this Department on the 1st November 2018. Unfortunately, due to an administrative oversight a response did not issue to Mr Foxe within the designated timeframe.

The Section 23 notice received by this Department on the 26th February stated that in the opinion of the reviewing OIC officer, the decision fell short of the requirements of the act. In the opinion of the reviewing OIC officer, the decision failed to give adequate reasons as to why an exemption was deemed to apply and failed to address the adequate public interest considerations.

On review of the response that was sent from this Department I can understand why this opinion was expressed by the OIC official. Due to the aforementioned administrative oversight the Department was under time constraints when compiling its response. The lack of detail contained in this initial decision is something I hope to remedy in this response.

Mr Foxes FOI request sought:

Copies of any correspondence/communication between Minister Zappone's office and the Bon Secours order with regard to the contribution of funds towards the forensic excavation of the Tuam site.

I believe that it may be helpful to provide some narrative background to this request.

On the 3rd March 2017, the Commission of Investigation into Mother and Baby Homes reported that in the course of its investigations it had discovered significant quantities of human remains in underground chambers at the site of the former Mother and Baby Home in Tuam Co. Galway.

After seeking expert technical advice, legal advices and consulting with the public, in October 2018 Government agreed to implement the multi-disciplinary framework, known as Humanitarian Forensic Action, as the appropriate response to the discovery of children's remains interred at this site. The actions to be taken include a phased approach to the forensic excavation and recovery of the juvenile human remains in so far as this is possible.

It is envisaged that a provisional estimate would range from €6m to €13m. Given that the project will be responsive to the demands of the site there is potential for high variability in the ultimate costs.

At the time of these historical burials the institution was operated by the Congregation of the Sisters of Bon Secours. In July 2018 Minister for Children and Youth Affairs Katherine Zappone approached the order seeking a voluntary contribution towards the costs of the proposed action at the Tuam site. In October 2018 Minister Zappone announced that the order had made an offer of €2.5m towards work at the site.

Three letters that fall under the specific request made by Mr Foxe were identified in the search and retrieval process. The letters concerned are correspondence between Minister Zappone and the Bon Secours Ireland Country Leader Sr Marie Ryan. These letters detail Minister Zappone's initial request for a voluntary contribution and an agreement to discuss at a future meeting.

The deciding officer made the decision to not release these records at this time citing Section 30 (1) (c) and Section 29 (1) of the FOI Act. I have spoken to the deciding officer and the following paragraphs outline their rationale.

They decided that in their view, it was necessary to withhold them under Section 30 (1) (c) of the FOI Act due to the fact that they pertained to current negotiations being carried out by the Department. These documents relate to ongoing negotiations between the Department and the Bon Secours and it was their belief that it was in the public's best interest for these records to be withheld at that time.

A number of these same documents were deemed to relate to the ongoing deliberations of an FOI body and it was decided that it would best serve public interest to withhold these documents at that time under Section 29 (1) of the Act.

The deciding officer noted that these matters were closely related to issues before the Commission. The Commission of Investigation was established to investigate important, complex matters in the public interest. The commission, at the time of this decision, had not

made any findings relating to responsibility for the burials at the Tuam site or whether these burials were appropriate. It is in this context that the above decisions were made.

Any agreement with the Bon Secours regarding the voluntary contribution is subject to Government approval of a written agreement and until this point negotiations are considered to be ongoing. When applying the public interest tests the deciding officer believed that releasing these documents could negatively impact on the ongoing negotiation.

Due to an administrative oversight the response to Mr Foxe's FOI request was delayed. The Department notes that if it had of gone out in time the Department would have had the ability to have the decision internally reviewed by a more senior official.

In light of the issues raised by your office, the deciding officer has since reviewed this initial decision in detail. The documents in question do relate to ongoing negotiations and contain matters relating to a deliberative process. However, upon further review, they do not believe that the withholding these documents would be detrimental to the public interest. The deciding officer does not believe that the release of these documents would prejudice the ongoing discussions between the Department and the Bon Secours Order.

Matters have progressed since this initial decision and much of the information contained is now in the public domain. The Minister has received a Burials Report from the Commission and will seek formal Government approval to publish the report as quickly as possible after she has had an opportunity to consider its findings and consult the Attorney General.

In light of all the above it is now my intention to furnish Mr Foxe with the requested documents in full.

Yours sincerely,



Sean McNamara
Freedom of Information Unit
Department of Children and Youth Affairs

An Roinn Leanaí
agus Gnóthai Óige
Department of Children
and Youth Affairs

1



24th July 2018

Sr. Marie Ryan,
Country Leader,
Sisters of Bon Secours Ireland,
Leadership Office,
College Road, Cork.

Re: Former Mother and Baby Home, Tuam, CO. Galway.

Dear Sr. Ryan,

You will be aware that the Government has committed to identifying the most appropriate option for dealing sensitively and respectfully with the human remains found at the site of the former Mother and Baby Home in Tuam, Co Galway.

I have commissioned a number of initiatives to help with the technical and practical aspects of this matter, including the appointment of an Expert Technical Group which reported on the options available for implementation. These options range from memorialisation and no further excavations on the site to a full excavation, exhumation of all remains and DNA analysis, with re-interment elsewhere. I have had detailed costing estimates prepared in respect of a number of the options.

I have also arranged an independent consultation process to ascertain the views of local residents, former residents of the Home, their relatives, and the general public, and I published the report from this process recently. In addition, I have been taking legal advice on how any of the options might be implemented, and I have commissioned and received a report on the human rights aspects of the issue, which I plan to publish after I have brought it to Government.

I hope to be in a position to make a recommendation to the Government on what option to implement in the early Autumn. Whichever option is agreed, it is clear that there will be cost implications arising over a number of years. Given the involvement of the Bon Secours Sisters in the running of the Mother and Baby Home in Tuam between 1925 and 1961, I believe that is reasonable to seek discussions with the Order about sharing a proportion of these costs with the State.

Accordingly, I would welcome the opportunity to meet with you to begin a discussion on these matters. If you are agreeable I suggest that my office would contact yours shortly with a view to arranging a meeting for early September.

Thank you for your assistance in this matter.

Yours sincerely

Katherine Zappone TD
Minister for Children and Youth Affairs



Good Help to those in need since 1824

Sisters of Bon Secours Ireland,
Leadership Office, College Road, Cork.

Tel: +353 (0)21 4543310
Fax: +353 (0)21 4542533
Email: mryan@congregation.bonsecours.ie
www: bonsecoursisters.ie

2

Strictly Private & Confidential

Ms Katherine Zappone TD
Minister for Children and Youth Affairs
Office of the Minister
Department of Children and Youth Affairs
Block 1, Miesian Plaza
50-58 Baggot Street Lower
Dublin 2
D02 XW14



2nd August, 2018.

Re: Former Mother and Baby Home, Tuam, Co Galway

Dear Minister Zappone,

I refer to your letter of 24 July which we were both pleased and surprised to receive. We are always happy to engage in dialogue.

As you are aware, we have been involved with the Commission of Investigation into Mother and Baby Homes in relation to the former Mother and Baby Home in Tuam known as "St. Marys" and have been fully cooperating with same. We understand that the Commission intends to complete its work by February 2019 and intends at that stage, to issue a formal final report in relation to St Mary's Mother and Baby Home, Tuam. We are awaiting the outcome of the conclusion of the Commission's work with interest.

We were therefore surprised to receive your correspondence inviting us to meet with you to discuss St Mary's given that the Commission has not yet completed its statutory work.

As you are fully aware the Bon Secours Sisters in Ireland were requested by the local authority to operate the Mother and Baby Home which opened in a former workhouse Tuam at St Mary's. This was an institution created and operated by the Irish state.

Given the passage of time, it certainly appears to us, that the Home was not only under the stewardship of the Sisters at that time but under the supervision, direction and inspection of the local authority Galway County Council and also the Department of Health.

As you may also be aware when the Home closed in 1961 the Sisters at the time returned all documentation by way of the official Home Records to the Galway County Council and unfortunately to date we have not been provided with full and open access to those records which are now held by the Commission.

However from what we been able to glean from the work undertaken by our own Social Historian it certainly seems that the local authority Galway County Council were involved in the Home and were involved in the payment for a doctor and for a chaplain for the Home.

It also appears that the Home was inspected by the Department of Health Inspectors.

In relation to the deaths at the Home, as has made been clear in the media, the deaths of the infants were registered at that time and it would seem to us that it would follow that Galway County Council, the Department of Health and the doctor employed by the local authority for the Home would have been fully aware of the fact of these deaths and no doubt then would have been aware that burial arrangements would have to be made for the remains.

On the closure of the Home, Galway County Council took possession of the Home and subsequently then decided to develop the lands for local authority housing.

We have sought access to the Galway County Council records for this but this has been denied to us. We would assume that, for the purpose of taking possession of the former Home and for its development as local authority housing, Galway County Council would have been aware in the late 1960s of the existence of graves at the site and presumably this would have formed part of any assessment by them for the purpose of creating local authority housing on the site.

We would anticipate and hope that all of these issues would be clarified by the final report of the Commission and we await same with interest.

We also understood that the Commission would not only set out its findings, but would also set out recommendations. We had anticipated that those recommendations would relate to how the site was to be dealt with and what was to be done with the remains at the site.


We note that you wish to invite us to engage in dialogue with you in relation to the Home but you might please clarify that you are also seeking such dialogue with those other necessary parties being Galway County Council and the Department of Health?

You may or may not be aware that previously we were approached by a local organisation in Tuam and requested to provide a donation for the creation of a memorial garden which we did.

As we indicated above, we are always interested in dialogue and we look forward to hearing from you regarding the queries we have raised above so that such dialogue then can be arranged.

I look forward to hearing from you.

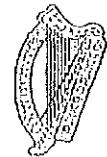
Yours sincerely,



Sr Marie Ryan
Country Leader

An Roinn Leanaí
agus Gnóthaí Óige
Department of Children
and Youth Affairs

3



9th August 2018

Sr. Marie Ryan
Country Leader
Sisters of Bon Secours Ireland
Leadership Office
College Road
Cork

Re: Former Mother and Baby Home, Tuam, Co. Galway.

Dear Sr. Ryan,

Thank you for your positive response to my letter and your agreement to engage in dialogue on this sensitive matter. With this in mind, I would be grateful if you could confirm if you would be available to meet me in Dublin on Wednesday 5th September at 3.00pm.

I note the contents of your letter and, as you quite rightly state, we must await the findings from the Commission of Investigation into Mother and Baby Homes before it will be possible to fully address the issues to which you refer in your letter. I will be happy to engage with you further on these matters in due course.

The statutory Commission of Investigation is independent in the conduct of its investigations. For the avoidance of any doubt, it is important to say that I have no knowledge or involvement in its investigative process. It follows that I have no information on the engagement between the Bon Secours and the Commission in regard to the issues referred to it by the Oireachtas.

My request at this time relates exclusively to the future of the site and the remains interred therein. As such I see this as separate and without prejudice to the ongoing investigations into the circumstances and responsibility for the disposal of human remains in this way. You may recall that in expressing its shock at the discovery of the infant remains, the Commission asked that relevant parties take responsibility for the appropriate response to this discovery.

I believe that all relevant parties, including the State and the Sisters of Bon Secours, have, at a minimum, a shared moral and ethical responsibility to ensure appropriate action is taken to compassionately respond to this tragic situation. You may wish to note that I am also liaising with Galway County Council and relevant Government colleagues in relation to these matters.



As Minister for Children and Youth Affairs, I am committed to ensuring that the site at Tuam is dealt with in a sensitive and respectful way taking account of concerns of those with personal connections to the former home and those currently living in the vicinity of the site. It is my intention to progress any actions deemed necessary in advance of the Commission delivering its findings in 2019.

I look forward to discussing this matter with you in greater detail in September.

Yours sincerely

Dr Katherine Zappone TD
Minister for Children and Youth Affairs